

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

NIPPONKOA INSURANCE COMPANY, LTD.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:06cv0447
)	
OZARK MOTOR LINES, INC.,)	
)	
Defendant.)	

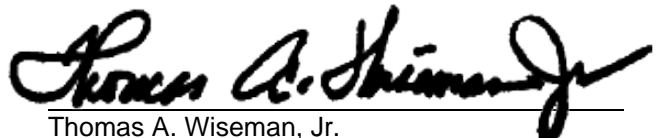
ORDER

Before the Court is the Defendant Ozark Motor Lines, Inc.'s Motion for leave to file a third-party complaint against Toshiba America Consumer Products, LLC ("Toshiba") and The Wackenhut Corporation ("Wackenhut") (Doc. No. 22). For the reasons discussed in the accompanying Memorandum Opinion, the Court will grant Defendant's motion to file a third-party complaint against both Wackenhut and Toshiba, with some modifications to the proposed third-party complaint. In particular, the Court finds that Defendant has not alleged facts in its proposed third-party complaint that would support a claim for punitive damages or attorney fees under the applicable law; consequently, such claims should not be included in the third-party complaint unless Defendant can allege specific facts to support such claims. In addition, claims against Toshiba purportedly for reimbursement or indemnification relating to the theft of the television shipments are more properly characterized as affirmative defenses and should not be included as "claims" in the third-party complaint.

Defendant shall file its third-party complaint in compliance with this order by or before Wednesday, October 18, 2006 and shall insure the prompt issuance and service of a summons along with the third-party complaint upon each third-party defendant.

The matter is referred back to the Magistrate Judge pending completion of discovery per the Order Amending Scheduling Order (Doc. No. 26).

It is so **ORDERED**.



Thomas A. Wiseman, Jr.
Senior U.S. District Judge